

THE HONORABLE LAUREN KING

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**UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE**

MICHAEL EVITT,

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS,
 INC., an Ohio Corporation, TRANS UNION
 LLC, a Delaware Limited Liability
 Company, EQUIFAX INFORMATION
 SERVICES, LLC, a Georgia Limited
 Liability Company,

Defendants.

NO. 3:23-cv-05294-LK

**PLAINTIFF'S STATUS REPORT
 AND MOTION TO WITHDRAW
 CASE FROM ARBITRATION**

COMES NOW PLAINTIFF, by and through the undersigned counsel, and respectfully requests that this Court withdraw this matter from arbitration.

I. INTRODUCTION

11 months after this case was initiated, Experian moved this Court to compel arbitration. This Court issued an order compelling arbitration. This Court also issued an order directing the parties to file a status report on May 8, 2024. Rather than filing for arbitration, Experian waited until 3:52 P.M., on May 8, 2024, to provide Plaintiff's with a proposed status report. Experian takes the position that, despite Experian *demanding* arbitration, Plaintiff was responsible to file for arbitration. Once again, Experian has acted inconsistent with the right to arbitration.

PLAINTIFF'S MOTION TO WITHDRAW
 CASE FROM ARBITRATION

II. FACTS

2.1 On March 1, 2024, Experian filed a motion to compel arbitration. ECF No. 42.

2.2 On March 8, 2024, Plaintiff responded with opposition alleging that Experian waived arbitration by acting inconsistent with the right to arbitrate. ECF No. 48.

2.3 On April 8, 2024, this Court compelled this matter to arbitration. ECF No. 62.

2.4 This Court ordered the parties to file a status report on May 8, 2024. *Id.*

2.5 Experian never filed for arbitration, nor paid arbitration fees.

III. AUTHORITY

Experian Waived Arbitration.

“Waiver, we have said, is the intentional relinquishment or abandonment of a known right.” *Morgan v. Sundance, Inc.*, 142 S. Ct. 1708, 171 (2022), citing *United States v. Olano*, 507 U. S. 725, 733 (1993). “While ‘waiver’ generally denotes the voluntary relinquishment of a known right, it can also refer to the loss of a right as a result of a party’s failure to perform an act it is required to perform, regardless of the party’s intent to relinquish the right.” *St. Agnes Medical Center v. PacifiCare of California*, 31 Cal.4th 1187, 1195-1196 (2003).

In this case, on April 8, 2024, the Court compelled arbitration and ordered the parties to file a status report on May 8, 2024. ECF No. 62. Instead of filing for arbitration, Experian waited until 3:52 P.M., on May 8, 2024, to provide Plaintiff’s counsel with a draft status report. Experian’s proposed status report attempts to place the onus to file for arbitration on Plaintiff. Plaintiff never requested arbitration. ECF Nos. 42-48. To date, Experian has not filed for arbitration, nor paid arbitration fees. Experian has again engaged in delay and actions contrary to the right to arbitrate the claims presented in this action.

1 **IV. CONCLUSION**

2 For the above reasons, this Court should issue an order withdrawing this matter from
3 arbitration where Experian has once again engaged in delay and actions contrary to the right to
4 arbitration.

5 Dated May 8, 2024.

6
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14 **WORD COUNT CERTIFICATION**

15 *Pursuant to Local Civil Rule 7(e)(6), I hereby certify that this document contains 429 words.

16 Dated May 8, 2024.

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24 *Attorney for Plaintiff, Michael Evitt*

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on the 8th day of May, 2024, I filed the foregoing in ECF, which will send notice to Defendants at the following:

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1 Dated this 8th day of May, 2024, at Key West, Fla.

2 *S//Robert W. Mitchell*

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